

CHAPTER 58  
FILING RETURNS, PAYMENT OF TAX, PENALTY AND INTEREST,  
AND ALLOCATION OF TAX REVENUES

[Prior to 12/17/86, Revenue Department[730]]

**701—58.1(422) Who must file.** Every financial institution as defined in 701—subrule 57.1(2), regardless of net income, shall file a true and accurate return of its income or loss for the taxable period. The return shall be signed by the president or other duly authorized officer. If the financial institution was inactive or not doing business within Iowa, although qualified to do so, during the taxable year, the return must contain a statement to that effect.

**58.1(1) *Income tax of financial institutions in liquidation.*** When a financial institution is in the process of liquidation, or in the hands of a receiver, the franchise tax returns must be made under oath or affirmation of the persons responsible for the conduct of the affairs of such financial institutions, and must be filed at the same time and in the same manner as required of other financial institutions.

**58.1(2) *Franchise tax returns for financial institutions dissolved.*** Financial institutions which have been dissolved during the income year must file franchise tax returns for the period prior to dissolution which has not already been covered by previous returns. Officers and directors are responsible for the filing of the returns and for the payment of taxes, if any, for the audit period provided by law.

Where a financial institution dissolves and disposes of its assets without making provision for the payment of its accrued Iowa franchise tax, liability for the tax follows the assets so distributed and upon failure to secure the unpaid amount, suit to collect the tax may be instituted against the stockholders and other persons receiving the property, to the extent of the property received, except bona fide purchasers or others as provided by law.

This rule is intended to implement Iowa Code sections 422.60 and 422.61.

**701—58.2(422) Time and place for filing return.**

**58.2(1) *Returns of financial institutions.*** A return of income for all financial institutions must be filed on or before the delinquency date. The delinquency date for all financial institutions is the day following the last day of the fourth month following the close of the taxpayer's taxable year, whether the return be made on the basis of the calendar year or the fiscal year; or the day following the last day of the period covered by an extension of time granted by the director. When the last day prior to the delinquency date falls on a Saturday, Sunday or a legal holiday, the return will be timely if it is filed on the first business day following the Saturday, Sunday or legal holiday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the department on or before the delinquency date for filing, no penalty will attach should the return not be received until after that date. Mailed returns should be addressed to Franchise Tax Processing, Hoover State Office Building, Des Moines, Iowa 50319.

**58.2(2) *Short period returns.*** Where under a provision of the Internal Revenue Code, a financial institution is required to file a tax return for a period of less than 12 months, a short period Iowa franchise tax return must be filed for the same period. The delinquency date for the short period return is 45 days after the federal due date not considering any federal extension of time to file.

**58.2(3) *Extension of time for filing returns for tax years beginning on or after January 1, 1991.*** See 701—subrule 39.2(4).

**58.2(4) *Extension of time for filing returns for tax years beginning on or after January 1, 1986.*** Rescinded IAB 3/15/95, effective 4/19/95.

This rule is intended to implement Iowa Code sections 422.24, 422.62, and 422.66.

**701—58.3(422) Form for filing.**

**58.3(1) *Use and completeness of prescribed forms.*** Returns shall be made by financial institutions on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for same to the department in ample time to have their returns made, verified and filed on or before the delinquency date. Taxpayers shall carefully prepare their returns so as to fully and clearly set forth the data required. For lack of a prescribed form, a statement made by a taxpayer disclosing the taxpayer's gross income and the deductions therefrom may be accepted as a tentative return, and if verified and filed within the prescribed time, will relieve the taxpayer from liability to penalties, provided that without unnecessary delay such a tentative return is replaced by a return made on the proper form. Each question shall be answered and each direction complied with in the same manner as if the forms and instructions were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making any return required by the statute.

Returns received which are not completed, but merely state "see schedule attached" are not considered to be a properly filed return and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return being filed after the due date.

**58.3(2) *Form for filing—financial institutions.*** Financial institutions as defined by Iowa Code section 422.61(1) shall include a true and accurate copy of their federal corporation income tax return as filed with the Internal Revenue Service with the filing of their Iowa return. At a minimum this includes the following federal schedules: income statement, balance sheet, reconciliation of income per books with income per return, analysis of unappropriated retained earnings per books, dividend income and special deductions, capital gains, tax computation and tax deposits, investment credit computation and recapture, work incentive credit computation, foreign tax credit computation, minimum tax computation, and statements detailing other income and other deductions.

When a financial institution whose income is included in a consolidated federal income tax return files an Iowa return, federal consolidating income statements as properly computed for federal income tax purposes showing the income and expenses of each member of the consolidated group shall be required together with the following additional schedules on a separate basis:

- a. Capital gains.
- b. Investment credit computation.
- c. Investment credit recapture.
- d. Work incentive credit computation.
- e. Foreign tax credit computation.
- f. Holding company tax computation.
- g. Minimum tax computation.
- h. Schedules detailing other income and other deductions.

**58.3(3) *Amended returns.*** If it becomes known to the taxpayer that the amount of income reported to be federal net income or Iowa taxable income subject to franchise tax was erroneously stated on the Iowa return, or changed by Internal Revenue Service audit, or otherwise, the taxpayer shall file an amended Iowa return along with supporting schedules, to include the amended federal return and a copy of the federal revenue agent's report if applicable. A copy of the federal revenue agent's report and notification of final federal adjustments provided by the taxpayer will be acceptable in lieu of an amended return. The assessment or refund of tax shall be dependent on the statute of limitations as set forth in 701—subrule 57.2(1) and rule 701—60.3(422).

This rule is intended to implement Iowa Code sections 422.62, 422.66 and 422.73.

**701—58.4(422) Payment of tax.**

**58.4(1) *Quarterly estimated payments.*** Effective for taxable years beginning on or after July 1, 1977, financial institutions are required to make quarterly payments of estimated franchise tax. Rules pertaining to the estimated tax are contained in 701—Chapter 61.

**58.4(2)** *Full estimated payment prior to original delinquency date.* Rescinded IAB 3/15/95, effective 4/19/95.

**58.4(3)** *Penalty and interest on unpaid tax.* In computing penalty and interest on unpaid tax, refer to rule 701—10.66(422).

**58.4(4)** *Payment of tax by uncertified checks.* The department will accept uncertified checks in payment of franchise taxes, provided such checks are collectible for their full amount without any deduction for exchange or other charges. The date on which the department receives the check will be considered the date of payment, so far as the taxpayer is concerned, unless the check is dishonored. If one check is remitted to cover two or more financial institutions' taxes, the remittance must be accompanied by a letter of transmittal stating:

- a. The name of the drawer of the check;
- b. The amount of the check;
- c. The amount of any cash, money order or other instrument included in the same remittance;
- d. The name of each financial institution whose tax is to be paid by the remittance; and
- e. The amount of payment on account of each financial institution.

**58.4(5)** *Procedure with respect to dishonored checks.* If any check is returned unpaid, all expenses incidental to the collection thereof will be charged to the taxpayer. If any taxpayer whose check has been returned by the depository bank uncollected should fail at once to make the check good, the director will proceed to collect the tax as though no check had been given. A taxpayer who tenders a certified check in payment for taxes is not relieved from the taxpayer's obligation until the check has been paid.

This rule is intended to implement Iowa Code chapter 422.

#### **701—58.5(422) Minimum tax.**

**58.5(1)** Effective for tax years beginning on or after January 1, 1982, but before January 1, 1987, an Iowa minimum tax is imposed in addition to the tax computed under Iowa Code section 422.60. The Iowa minimum tax on tax preference items is a percentage of the federal minimum tax on tax preference items. "Federal minimum tax" means the federal minimum tax for tax preferences computed under Sections 56 through 58 of the Internal Revenue Code for the tax year.

When a financial institution joins with at least one other corporation in the filing of a consolidated federal income tax return, and files a separate Iowa franchise tax return, the consolidated federal minimum tax shall be allocated to the separate entities included in the consolidated federal return. The allocation of the consolidated federal minimum tax shall be determined as follows: The consolidated federal minimum tax is multiplied by a fraction, the numerator of which is the sum of the taxpayer's federal tax preference items and the denominator of which is the total of the federal tax preference items of each entity included in the consolidated federal income tax return.

For tax years beginning on or after January 1, 1982, and prior to January 1, 1983, the Iowa minimum tax is 25 percent of the state's apportioned share of the federal minimum tax on tax preference items.

For tax years beginning on or after January 1, 1983, the Iowa minimum tax is 70 percent of the state's apportioned share of the federal minimum tax on tax preference items.

**58.5(2)** For tax years beginning after 1997, a small business corporation or a new corporation, that is a financial institution, for its first year of existence, that through the operation of Internal Revenue Code Section 55(e) is exempt from the federal alternative minimum tax, is not subject to Iowa alternative minimum tax. A small business corporation that is a financial institution may apply any alternative minimum tax credit carryforward to the extent of its regular Iowa franchise tax liability.

For tax years beginning on or after January 1, 1987, the minimum tax is imposed only to the extent that it exceeds the taxpayer's regular tax liability computed under Iowa Code section 422.63. The minimum tax rate is 60 percent of the maximum franchise tax rate rounded to the nearest one-tenth of 1 percent or 3 percent. Minimum taxable income is computed as follows:

State taxable income as adjusted by Iowa Code sections 422.35 and 422.61(4)

Plus: Tax preference items, adjustments and losses added back

Less: Allocable income including allocable preference items

Subtotal

Times: Apportionment percentage

Result

Plus: Income allocable to Iowa including allocable preference items

Less: Iowa alternative tax net operating loss deduction

\$40,000 exemption amount

Equals: Iowa alternative minimum taxable income

For taxable years beginning on or after January 1, 1987, the items of tax preference are the same items of tax preference under Section 57 except for subsections (a)(1) and (a)(5) of the Internal Revenue Code used to compute federal alternative minimum taxable income. The adjustments to state taxable income are those adjustments required by Section 56 except for subsections (a)(4), (c)(1), (d), (f), and (g) of the Internal Revenue Code used to compute federal alternative minimum taxable income computed without adjustments, the \$40,000 exemption and the state alternative tax net operating loss deduction shall be substituted for the amounts in Sections 56(f)(1)(B) and 56(g)(1)(B) of the Internal Revenue Code. For tax years beginning on or after January 1, 1988, in making the adjustment under Section 56(c)(1) of the Internal Revenue Code, interest and dividends from state and other political subdivisions and from regulated investment companies exempt from federal income tax under the Internal Revenue Code shall be subtracted net of amortization of any discount or premium. Losses to be added are those losses required to be added by Section 58 of the Internal Revenue Code in computing federal alternative minimum taxable income.

- a. Tax preference items are:
  1. Intangible drilling costs;
  2. Incentive stock options;
  3. Reserves for losses on bad debts of financial institutions;
  4. Appreciated property charitable deductions;
  5. Accelerated depreciation or amortization on certain property placed in service before January 1, 1987.
- b. Adjustments are:
  1. Depreciation;
  2. Mining exploration and development;
  3. Long-term contracts;
  4. Iowa alternative minimum net operating loss deduction;
  5. Book income or adjusted earnings and profits.
- c. Losses added back are:
  1. Farm losses;
  2. Passive activity losses.

Computation of Iowa alternative minimum tax net operating loss deduction.

Net operating losses computed under rule 701—59.2(422) carried forward from tax years beginning before January 1, 1987, are deductible without adjustment.

Net operating losses from tax years beginning after December 31, 1986, which are carried back or carried forward to the current tax year shall be reduced by the amount of tax preferences and adjustments taken into account in computing the net operating loss prior to applying allocation and apportionment. The deduction for a net operating loss from a tax year beginning after December 31, 1986, which is carried back or carried forward shall not exceed 90 percent of the alternative minimum taxable income computed without regard for the net operating loss deduction.

The exemption amount shall be reduced by 25 percent of the amount that the alternative minimum taxable income computed without regard to the \$40,000 exemption exceeds \$150,000. The exemption shall not be reduced below zero.

EXAMPLE: The following example shows the computation of the alternative minimum tax when there are net operating loss carryforwards and carrybacks including an alternative minimum tax net operating loss.

For tax year 1987, the following information is available:

Federal taxable income before NOL	\$ 35,000
Interest exempt from federal tax	5,000
Tax preferences and adjustments	53,400
Iowa income tax expensed on federal	878
Iowa NOL carryforward	<25,000 >

For tax year 1988, the following information is available:

Federal taxable income before NOL	\$ <90,000 >
Interest exempt from federal tax	4,000
Tax preferences and adjustments	20,000
Iowa franchise tax refund reported on federal	878

The alternative minimum tax for 1987 before the 1988 net operating loss carryback should be computed as follows:

#### Regular Iowa Tax

Federal taxable income	\$ 35,000
Add interest exempt from federal tax	5,000
Add Iowa franchise tax expensed	878
Iowa taxable income before NOL carryforward	<u>\$ 40,878</u>
Less NOL carryforward	<25,000 >
Iowa taxable income	<u>\$ 15,878</u>
Iowa income tax	\$ 794

#### Alternative Minimum Tax

Iowa taxable income before NOL	\$ 40,878
Add preferences and adjustments	53,400
Total	<u>\$ 94,278</u>
Less NOL carryforward*	<25,000 >
Iowa alternative taxable income	<u>\$ 69,278</u>
Less exemption amount	<40,000 >
Total	<u>\$ 29,278</u>
Times 3%	878
Less regular tax	794
Alternative minimum tax	<u>\$ 84</u>

\*Net operating loss carryforwards from tax years beginning before January 1, 1987, are deductible at 100 percent without reduction for items of tax preference or adjustments arising in the tax year.

The alternative minimum tax for 1987 after the 1988 net operating loss carryback should be computed as follows:

Regular Iowa Tax	
Federal taxable income	\$ 35,000
Add interest exempt from federal tax	5,000
Add Iowa franchise tax expensed	878
Iowa taxable income before NOL carryforward	<u>\$ 40,878</u>
Less NOL carryforward	<25,000 >
	<u>\$ 15,878</u>
Less NOL carryback from 1988 <sup>1</sup>	<86,878 >
NOL carryforward	<u>\$ &lt;71,000 &gt;</u>
Alternative Minimum Tax	
Iowa taxable income before NOL	\$ 40,878
Add preferences and adjustments	53,400
Total	<u>\$ 94,278</u>
Less NOL carryforward from pre-1987 tax year	<25,000 >
Total	<u>\$ 69,278</u>
Less alternative minimum tax NOL <sup>2</sup>	<62,350 >
Total	<u>\$ 6,928</u>
Less exemption	<40,000 >
Alternative minimum taxable income after NOL	<u>\$ -0-</u>

<sup>1</sup>Computation of 1988 Iowa NOL

Federal NOL	\$ <90,000 >
Add interest exempt from federal tax	4,000
Less Iowa refund in federal income	<878 >
Iowa NOL	<u>\$ &lt;86,878 &gt;</u>

<sup>2</sup>Computation of 1988 Alternative Minimum Tax NOL

Iowa NOL	\$ <86,878 >
Add preferences and adjustments	20,000
Total	<u>\$ &lt;66,878 &gt;</u>
NOL carryback limited to 90% of alternative minimum income before NOL and exemption*	\$ <62,350 >
Alternative minimum tax NOL carryforward	<u>\$ 4,528</u>

\*For purposes of the alternative minimum tax, net operating loss carryforward or carryback from tax years beginning after December 31, 1986, must be reduced by items of tax preference and adjustments, and are limited to 90 percent of alternative minimum taxable income before deduction of the post-1986 NOL and the \$40,000 exemption amount ( $\$69,278 \times 90\% = \$62,350$ ).

**58.5(3)** Penalty and interest. In computing penalty and interest for failure to file a timely return or to pay the minimum tax, refer to 701—subrules 10.66(2) and 10.66(3). Effective for tax years beginning on or after January 1, 1986, estimate payments are required for minimum tax.

**58.5(4)** Alternative minimum tax credit for minimum tax paid in a prior tax year. Minimum tax paid in prior tax years commencing with tax years beginning on or after January 1, 1987, by a taxpayer can be claimed as a tax credit against the taxpayer's regular income tax liability in a subsequent tax year. Therefore, 1988 is the first tax year that the minimum tax credit is available for use and the credit is based on the minimum tax paid by the taxpayer for 1987. However, only the portion of the minimum tax which is attributable to those adjustments and tax preferences which are "deferral items" qualifies for the minimum tax credit for tax years beginning prior to January 1, 1990. "Deferral items" are those tax preferences and adjustments which result in a temporary change in a taxpayer's tax liability. An example of a "deferral item" is the tax preference for accelerated depreciation of real property placed in service before 1987. On the other hand, the portion of the minimum tax which is attributable to the "exclusion item" for appreciated property charitable deduction does not qualify for the minimum tax credit. The appreciated property charitable deduction tax preference is the only state "exclusion item," although there are several "exclusion items" which are used to compute federal minimum tax. For tax years beginning on or after January 1, 1990, the entire amount of minimum tax paid qualifies for the minimum tax credit, and there is no longer any distinction between "deferral items" and "exclusion items." The minimum tax credit may only be used against regular income tax for a tax year to the extent that the regular tax is greater than the tentative minimum tax for the tax year. If the minimum tax credit is not used up against the regular tax for a tax year the remaining credit is carried to the following tax year to be applied against the regular income tax liability for that period.

*a. Computation of minimum tax credit on Form IA 8801C.* The minimum tax credit is computed on Form IA 8801C from information on Form IA 4626 for the prior tax year, Form IA 1120 and Form IA 4626 for the current year and from Form IA 8801C for the prior year (applies in 1989 and in subsequent tax years).

Form IA 8801C is in three parts. In the first part, a calculation is made to determine the portion of the minimum tax paid in the prior year, if any, which is attributable to the exclusion item for appreciated property charitable deduction. In the second portion of Form IA 8801C, the minimum tax attributable to the appreciated property charitable deduction from Part I is subtracted from the total minimum tax paid for the prior year. The remaining amount of minimum tax is attributable to the deferral tax preference items and adjustment items. This remaining amount, if any, is added to the minimum tax carryover credit from Form IA 8801C for the prior tax year, if any. This total is compared to the regular income tax liability less nonrefundable credits, less the tentative minimum tax for the current year and the lesser amount is the allowable minimum tax credit for the current year.

The final part of Form IA 8801C is used to compute the minimum tax credit, if any, which will be carried over to the next tax year. The carryover credit is computed by subtracting the allowable credit for the current tax year from the total of the minimum tax credit attributable to deferral items and the carryover credit from the prior tax years.

*b. Example.* The taxpayer had a 1989 taxable income of \$450,000 and an accelerated depreciation tax preference of \$280,000. In 1988 the taxpayer had taxable income of \$500,000 and tax preferences of \$370,000 which consisted of \$320,000 of accelerated property charitable deduction and \$50,000 of appreciated property charitable deduction. The minimum tax credit for 1989 was computed on Form IA 8801C using data from Form IA 4626F for 1988 and from Form IA 4626F for 1989 and Form IA 1120 for 1989.

## Form IA 8801C

## Part I. Computation of Minimum Tax on Exclusion Items

Line 11 - Gross tax on exclusion items	-0-
Line 12 - Less regular tax minus credits	\$33,900
Line 13 - Net minimum tax on exclusion items	-0-

## Part II. Computation of Allowable Credit for 1989

Line 14 - Enter amount from line 18 IA 4626F for 1988	\$ 1,100
Line 15 - Enter amount from line 13 part I	-0-
Line 16 - Subtract line 15 from line 14	\$ 1,100
Line 17 - Enter credit carryforward from 1987	-0-
Line 18 - Add lines 16 and 17	\$ 1,100
Line 19 - Enter 1989 regular tax liability	\$22,500
Line 20 - Enter 1989 tentative minimum tax	\$21,600
Line 21 - Subtract line 20 from line 19	\$ 900
Line 22 - Allowable minimum tax credit for 1989. Enter smaller of line 18 or line 21	\$ 900

## Part III. Computation of Minimum Tax Credit Carryovers

Line 23 - Enter amount from line 18 part II	\$ 1,100
Line 24 - Enter amount from line 22 part II	900
Line 25 - Carryforward of minimum tax credit to 1990. Subtract line 24 from line 23	\$ 200

This rule is intended to implement Iowa Code section 422.60.

**701—58.6(422) Refunds and overpayments.**

**58.6(1) to 58.6(6)** Reserved.

**58.6(7)** *Computation of interest on refunds resulting from net operating losses or net capital losses for tax years or periods beginning on or after January 1, 1974, and ending after July 1, 1980.* If the amount of tax for any year is reduced as a result of a net operating loss or net capital loss carryback from another year, interest shall accrue on the refund resulting from the loss carryback beginning at the close of the taxable year in which the net operating loss or net capital loss occurred or 30 days after payment of the tax, whichever is later. If the net operating loss or net capital loss carryback to a prior year eliminates or reduces an outstanding assessment or underpayment of tax for the prior year, the full amount of the outstanding assessment or underpayment shall bear interest at the statutory rate from the original due date of the tax for the prior year to the last day of the taxable year in which the net operating loss or net capital loss occurred.

**58.6(8)** *Computation of interest on refunds resulting from net operating losses for tax years ending on or after April 30, 1981.* If the amount of tax is reduced as a result of a net operating loss or a net capital loss carryback, interest shall accrue on the refund resulting from the loss carryback beginning at the close of the taxable year in which the net operating loss occurred or the first day of the second calendar month following the actual payment date, whichever is later.

**58.6(9)** *For refund claims received by the department after June 11, 1984.* If the amount of tax is reduced as a result of a net operating loss or net capital loss, interest shall accrue on the refund resulting from the loss carryback beginning on the date a claim for refund or amended return carrying back the net operating loss or net capital loss is filed with the department or the first day of the second calendar month following the actual payment date, whichever is later.



**58.6(10) Overpayment—interest accruing before July 1, 1980.** If the amount of tax determined to be due by the department is less than the amount paid, and the date of payment occurred prior to April 30, 1980, interest shall accrue from 60 days after the date of payment at the statutory rate, to the date refunded.

**58.6(11) Interest commencing on or after January 1, 1982.** See rule 701—10.2(421) regarding the rate of interest charged by the department on delinquent taxes and the rate paid by the department on refunds commencing on or after January 1, 1982.

**58.6(12) Overpayment—interest accruing on or after July 1, 1980, and before April 30, 1981.** If the amount of tax determined to be due by the department is less than the amount paid, and the date of payment occurred on or after April 30, 1980, and before April 30, 1981, interest shall accrue from 30 days after the date of payment or due date of the return, whichever is later, at the statutory rate, to the date refunded. “Date of payment” means the date the return is filed.

**58.6(13) Overpayment—interest accruing on overpayments resulting from returns due on or after April 30, 1981.** If the amount of tax determined to be due by the department is less than the amount paid, the excess to be refunded will accrue interest from the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the later.

**58.6(14)** Renumbered as 701—subrule 10.66(5), IAB 1/23/91.

**701—58.7(422) Allocation of franchise tax revenues.** Each quarterly distribution shall be made up of the tax shown due on the franchise tax returns received during that quarter, net of all refunds of franchise tax established during that quarter. In determining the portion of franchise tax revenues to be distributed to cities and counties, each financial institution, as defined by Iowa Code section 422.61, is required to submit the appropriate allocation data with the filing of its Iowa franchise tax return. Each financial institution shall accumulate or maintain data to properly determine the business activity ratios as prescribed in subrules 58.7(1) and 58.7(2). The allocation shall be made on the basis of business activity for each office location. The word “office” shall mean a branch office, a drive-in bank depository or any other establishment whereby the business pertaining to the financial institution is carried on.

**58.7(1) Business activity determination for a production credit association.** A production credit association shall measure its business activity on the basis of loan volume. “Loan volume” shall mean total loans originated during the taxable period. The business activity for each office location shall be that percentage of loans originated by each office to total loans originated for all office locations during the taxable period.

**58.7(2) Business activity determination for a financial institution other than a production credit association.** A financial institution, other than a production credit association, shall measure its business activity on a basis of net deposits. The business activity of each office shall be that percentage of average “savings and demand deposits net of withdrawals” for each office location to the total average “savings and demand deposits net of withdrawals” for all office locations.

This rule is intended to implement Iowa Code section 422.61.

**701—58.8(15E) Eligible housing business tax credit.** For tax years beginning on or after January 1, 2000, a financial institution may claim on the franchise tax return the pro-rata share of the Iowa eligible housing business tax credit from a partnership, limited liability company, estate or trust which has been approved as an eligible housing business by the Iowa department of economic development.

An eligible housing business may receive a tax credit of up to 10 percent of the new investment which is directly related to the building or rehabilitating of homes in an enterprise zone. The tax credit may be taken on the tax return for the tax year in which the home is ready for occupancy. The portion of the credit claimed by the taxpayer shall be in the same ratio as the taxpayer's pro-rata share of the earnings of the partnership, limited liability company, estate or trust. Any eligible housing business tax credit in excess of the franchise tax liability must be carried forward for seven years or until it is used, whichever is the earlier.

Prior to January 1, 2001, the tax credit cannot exceed 10 percent of \$120,000 for each home or individual unit in a multiple dwelling unit building. Effective January 1, 2001, the tax credit cannot exceed 10 percent of \$140,000 for each home or individual unit in a multiple dwelling unit building.

**58.8(1) *Computation of credit.*** New investment which is directly related to the building or rehabilitating of homes includes but is not limited to the following costs: land, surveying, architectural services, building permits, inspections, interest on a construction loan, building materials, roofing, plumbing materials, electrical materials, amounts paid to subcontractors for labor and materials provided, concrete, labor, landscaping, appliances normally provided with a new home, heating and cooling equipment, millwork, drywall and drywall materials, nails, bolts, screws, and floor coverings.

New investment does not include the machinery, equipment, hand or power tools necessary to build or rehabilitate homes.

If the eligible housing business fails to maintain the requirements of Iowa Code section 15E.193B, as amended by 2003 Iowa Acts, Senate File 441, to be an eligible housing business, the taxpayer may be required to repay all or a part of the tax incentives the business received. Irrespective of the fact that the statute of limitations to assess the taxpayer for repayment of the income tax credit may have expired, the department may proceed to collect the tax incentives forfeited by failure to maintain the requirements of Iowa Code section 15E.193B as amended by 2003 Iowa Acts, Senate File 441. This is because it is a recovery of an incentive, rather than an adjustment to the taxpayer's tax liability.

Effective for tax periods beginning on or after January 1, 2003, the taxpayer must receive a tax credit certificate from the Iowa department of economic development to claim the eligible housing business tax credit. The tax credit certificate shall include the taxpayer's name, the taxpayer's address, the taxpayer's tax identification number, the date the project was completed, the amount of the eligible housing business tax credit, and the tax year for which the credit may be claimed. In addition, the tax credit certificate shall include a place for the name and tax identification number of a transferee and the amount of the tax credit being transferred, as provided in subrule 58.8(2). The tax credit certificate must be attached to the income tax return for the tax period in which the home is ready for occupancy.

**58.8(2) *Transfer of the eligible housing business tax credit.*** For tax periods beginning on or after January 1, 2003, the eligible housing business tax credit certificates may be transferred to any person or entity if low-income housing tax credits authorized under Section 42 of the Internal Revenue Code are used to assist in the financing of the housing development.

Within 90 days of transfer of the tax credit certificate, the transferee must submit the transferred tax credit certificate to the Iowa department of economic development, along with a statement which contains the transferee's name, address and tax identification number, and the amount of the tax credit being transferred. Within 30 days of receiving the transferred tax credit certificate and the statement from the transferee, the Iowa department of economic development will issue a replacement tax credit certificate to the transferee. If the transferee is a partnership, limited liability company or S corporation, the transferee shall provide a list of the partners, members or shareholders and information on how the housing business tax credit should be divided among the partners, members or shareholders. The transferee shall also provide the tax identification numbers and addresses of the partners, members or shareholders. The replacement tax credit certificate must contain the same information that was on the original certificate and must have the same expiration date as the original tax credit certificate.

The transferee may use the amount of the tax credit for any tax period for which the original transferor could have claimed the tax credit. Any consideration received for the transfer of the tax credit shall not be included in Iowa taxable income for individual income, corporation income or franchise tax purposes. Any consideration paid for the transfer of the tax credit shall not be deducted from Iowa taxable income for individual income, corporation income or franchise tax purposes.

This rule is intended to implement Iowa Code section 15E.193B as amended by 2003 Iowa Acts, Senate File 441.

**701—58.9(15E) Eligible development business investment tax credit.** Effective for tax years beginning on or after January 1, 2001, a business which qualifies as an eligible development business may receive a tax credit of up to 10 percent of the new investment which is directly related to the construction, expansion or rehabilitation of building space to be used for manufacturing, processing, cold storage, distribution, or office facilities.

An eligible development business must be approved by the Iowa department of economic development and meet the qualifications of Iowa Code Supplement section 15E.193C.

New investment includes the purchase price of land and the cost of improvements made to real property. The tax credit may be claimed by an eligible development business in the tax year in which the construction, expansion or rehabilitation is completed.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the business is a partnership, S corporation, limited liability company, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

If the eligible development business fails to meet and maintain any one of the requirements to be an eligible business, the business shall be subject to repayment of all or a portion of the amount of tax incentives received. For example, if within five years of project completion the development business sells or leases any space to any retail business, the development business shall proportionally repay the value of the investment credit. The proportion of the investment credit that would be due for repayment by an eligible development business for selling or leasing space to a retail business would be determined by dividing the square footage of building space occupied by the retail business by the square footage of the total building space.

An eligible business, which is not a development business, which operates in an enterprise zone cannot claim an investment tax credit if the property is owned, or was previously owned, by an approved development business that has already received an investment tax credit. An eligible business, which is not a development business, can claim an investment tax credit only on additional, new improvements made to real property that was not included in the development business's approved application for the investment tax credit.

This rule is intended to implement Iowa Code Supplement section 15E.193C.

**701—58.10(422) Property rehabilitation tax credit.** For tax years beginning on or after January 1, 2001, a property rehabilitation credit, subject to the availability of the credit, may be claimed against a taxpayer's Iowa franchise tax liability for 25 percent of the qualified rehabilitation costs to the extent the costs were incurred for the rehabilitation of eligible property in Iowa. For information on those types of property that are eligible for the rehabilitation credit, how to file applications for the credit, how the property rehabilitation credit is computed, how the property rehabilitation credit can be transferred for tax periods beginning on or after January 1, 2003, and other details about the credit, see rule 701—52.18(422). See also the administrative rules for the property rehabilitation credit for the historical division of the department of cultural affairs under 223—Chapter 48.

This rule is intended to implement Iowa Code chapter 404A as amended by 2003 Iowa Acts, Senate File 441, and section 422.60.

**701—58.11(15E,422) Venture capital credits.**

**58.11(1)** *Investment tax credit for an equity investment in a community-based seed capital fund.* See rule 123—2.1(15E) for the discussion of the investment tax credit for an equity investment in a community-based seed capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a community-based seed capital fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

**58.11(2)** *Investment tax credit for an equity investment in a venture capital fund.* See rule 123—3.1(15E) for the discussion of the investment tax credit for an equity investment in a venture capital fund, along with the issuance of tax credit certificates by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when the tax credit certificates are issued. The tax credit certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

For equity investments made in a venture capital fund, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

**58.11(3)** *Contingent tax credit for investments in Iowa fund of funds.* See rule 123—4.1(15E) for the discussion of the contingent tax credit available for investments made in the Iowa fund of funds organized by the Iowa capital investment corporation. Tax credit certificates related to the contingent tax credits will be issued by the Iowa capital investment board.

The department of revenue will be notified by the Iowa capital investment board when these tax credit certificates are issued and, if applicable, when they are redeemed. If the tax credit certificate is redeemed, the certificate must be attached to the taxpayer's return for the tax year in which the credit may be redeemed as stated on the tax credit certificate.

If the tax credit certificate is redeemed, any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following seven years or until used, whichever is the earlier.

If the tax credit certificate is redeemed, an individual may claim the credit if the investment was made by a partnership, S corporation, limited liability company, or an estate or trust electing to have the income directly taxed to the individual. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, S corporation, limited liability company, or estate or trust.

This rule is intended to implement Iowa Code section 15E.43 as amended by 2003 Iowa Acts, chapter 179, and sections 15E.51, 15E.66, 422.11F and 422.60(5).

**701—58.12(15) New capital investment program tax credits.** Effective for tax periods beginning on or after January 1, 2003, a business which qualifies under the new capital investment program is eligible to receive tax credits. An eligible business under the new capital investment program must be approved by the Iowa department of economic development and meet the qualifications of 2003 Iowa Acts, House File 677, section 4. For information on what credits can be taken under this program, how the investment tax credit is computed and other details about this program, see rule 701—52.22(15). However, the research credit described in 701—subrule 52.22(1) is not available for franchise tax filers. See also Iowa department of economic development administrative rules for the new capital investment program under 261—Chapter 64.

This rule is intended to implement 2003 Iowa Acts, House File 677, sections 1 to 7, and Iowa Code section 15.333 as amended by 2003 Iowa Acts, House File 677, section 8.

**701—58.13(15E) Endow Iowa tax credit.** Effective for tax years beginning on or after January 1, 2003, a taxpayer who makes an endowment gift to a qualified community foundation may qualify for an endow Iowa tax credit, subject to the availability of the credit. The credit is equal to 20 percent of a taxpayer's endowment gift to a qualified community foundation approved by the Iowa department of economic development. The administrative rules for the endow Iowa tax credit for the Iowa department of economic development may be found under 261—Chapter 47.

The total amount of endow Iowa tax credits available is \$2 million, and the maximum amount of tax credit granted to a single taxpayer shall not exceed \$100,000. An endow Iowa tax credit shall not be authorized after December 31, 2005. The endow Iowa tax credit cannot be transferred to any other taxpayer.

Any credit in excess of the tax liability for the tax year may be credited to the tax liability for the following five years or until used, whichever is the earlier.

If a taxpayer is a partnership, limited liability company, S corporation, or an estate or trust electing to have the income taxed directly to the individual, an individual may claim the credit. The amount claimed by an individual must be based on the individual's pro-rata share of the individual's earnings of the partnership, limited liability company, S corporation, or estate or trust.

This rule is intended to implement Iowa Code section 15E.305 and section 422.60 as amended by 2003 Iowa Acts, First Extraordinary Session, chapter 2, section 86.

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